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Appl. no. 10/512,002  
Atty. ref. 0-010302USWZFN

### REMARKS

Claims 2-9 and 11-13 are pending in this application. Claims 1 and 10 have been canceled pursuant to the foregoing amendments.

The foregoing amendments to the specification are designed to make the document easier to understand to the interested reader. Specifically,

- page 4 has been amended to add what appears to have been an omitted line of text; and
- the paragraph bridging pp. 5-6 has been amended to add a missing word and to delete an extraneous one.

Support for the first amendment can be found, *inter alia*, in as-filed claim 1. No specific support is believed necessary for introduction of the second amendment.

Claim 1 has been replaced by new claim 11. Support for claim 11 can be found at, e.g., claim 1 as filed, Figure 1 and associated text, etc. Claim 11 is believed to clarify the structure being claimed and should facilitate the explanation of how this structure differs from those taught by the references of record.

Support for new claims 12-13 can be found at, e.g., the paragraph that bridges pp. 5-6 and lines 14-16 of page 6 in the specification as filed.

Claim 10, drawn to a distinct invention, has been canceled without prejudice to its rejoinder and/or later submission in this or a related application.

All original claims were rejected in the 8/23 Action as anticipated by or obvious over a number of cited references, specifically,

- claims 1-2 and 8-9 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,017,079 (hereinafter the '079 patent);
- claims 1-5 and 7-9 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,953,922 (hereinafter the '922 patent);
- claim 10 was rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,549,938 (hereinafter the '938 patent); and
- claims 1 and 6 were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,373,058 (hereinafter the '058 patent).

Claim 10 has been canceled, and no corresponding claim has been submitted in its place. Accordingly, this submission includes no discussion of the '938 patent.

Because the pending claims are not taught or suggested by the references of record, Applicants traverse these rejections.

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Anticipation, 35 U.S.C. § 102(b)

*A. Claims 1-2 and 8-9, the '079 patent*

Claim 1 has been canceled; claim 11 now is the sole independent claim. Applicants respectfully submit that the '079 patent does not teach claim 11 nor any of the claims dependent therefrom.

The '079 patent is directed solely to visual camouflage; see, e.g., lines 5-25 of col. 1, lines 8-19 of col. 2, lines 36-37 of col. 5, etc. It neither teaches nor suggests protection against any other type of detection method.

While the 8/23 Action implies that the process of printing would yield "an uneven surface profile," Applicants note that this interpretation is inconsistent with the specification; see, e.g., lines 1-20 of page 9 of the specification as filed (where creation of this profile is shown to be greater than that provided by printing or imaging, discussed at, e.g., page 8 of the specification).

Nevertheless, to advance prosecution, claim 11 includes the term "embossed" so as to clarify that the unevenness is greater than that imparted by standard printing/imaging techniques (although the term should be construed solely in view of its standard meaning and its description in the specification).

Clearly, the '079 patent neither teaches nor suggests the invention set forth in claim 11.

Additionally, claim 2 adds an additional feature which further distinguishes it from the teaching of the '079 patent.

Applicants respectfully request reconsideration and withdrawal of any anticipation rejection based on the '079 patent.

*B. Claims 1-5 and 7-9, the '922 patent*

Claim 1 has been canceled. Claim 11 now is the sole independent claim.

Applicants respectfully submit that the '922 patent does not teach claim 11 nor any of the claims dependent therefrom. For ease of reference, certain portions of the '922 patent<sup>1</sup> are reproduced below.

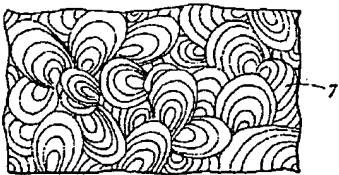


FIG. 2

The surface coating 5 supports a plastic layer 6 having a precisely determined thickness, the outwardly turned surface of which forms said front surface 2. The front surface of the foil is textured by means of an embossment 7. This embossment may consist of a large number of tightly packed grooves, which form an irregular pattern. An example of such a pattern is shown in a view of the material in FIG. 2.

<sup>1</sup> Fig. 2 and lines 15-22 of col. 3.

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Without delving into all differences between the teaching of the '922 patent and the invention set forth in claim 12, Applicants note that nowhere does the '922 patent teach that the outermost surface be both embossed and bear a colored imprint, image, etc. Instead, the '922 patent teaches only protection against visual detection through this type of pattern embossing; see also, e.g., the table bridging cols. 5-6. In fact, given the composition and structure of the underlying foil (4) and surface coating (5), the material taught in the '922 patent likely would be iridescent or pearlescent.

The '922 patent neither teaches nor suggests the invention set forth in claim 11. Applicants respectfully request reconsideration and withdrawal of any anticipation rejection based on the '922 patent.

Obviousness, 35 U.S.C. § 103(a) – claims 1 and 6 over the '058 patent

Claim 1 has been canceled. Claim 11 now is the sole independent claim.  
The 8/23 Action reads, in pertinent part,

6. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKinney (6373058).  
McKinney relates to covering for application to one or more surfaces of a structure (figure-3), the covering comprising a sheet including a plurality of components (10, 20, 30), each of said components being capable of providing protection against detection by at least one sensing method. A component is phase change material (abstract). The covering surface is interpreted to be of uneven profile because foam or fabric are known to have uneven surface texture. However, McKinney fails to teach the presence of adhesive on an exterior opposite surface of the covering. Granqvist discloses a covering having an adhesive exterior surface (8) and a surface (31) opposite the adhesive surface having an uneven surface profile (figure-1), wherein the adhesive provides for adhering to a structure surface. Therefore, it would have been obvious to one having ordinary skill in the art to utilize Granqvist's teaching of using adhesive on the opposite surface of the covering in the invention of McKinney with the motivation to provide or adhering to a surface structure.

Applicants respectfully traverse this rejection and submit that the '058 patent does not suggest claim 11 or claim 6.

For ease of reference, certain portions of the '058 patent<sup>2</sup> are reproduced below.

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<sup>2</sup> Figs. 2-3 and lines 20-27 of col. 2.

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Figure 2

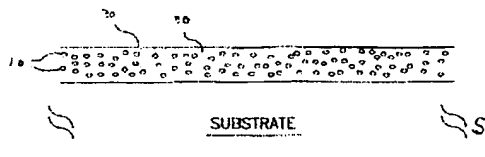


Figure 3

Referring more specifically to the drawings, a couple of generic embodiments of the invention are there illustrated. In FIG. 2, a plurality of microcapsules 10 having a wall 11 and containing a phase change material 12 are embedded within a foamed substrate 20. Similarly, in FIG. 3, a plurality of microcapsules are embedded within a binder 30 that is applied to a substrate.

Figs. 2 and 3 from the '058 patent show alternative, mutually exclusive embodiments, i.e., a foamed substrate (Fig. 2) and a coating or paint (Fig. 3). Thus, contrary to that which is implied in the 8/23 Action, Figure 3 shows neither a sheet nor component 20; instead, Figure 3 shows a substrate coated with a binder including microencapsulated phase change materials.

Neither Figure 2 nor Figure 3 teaches or suggests an imaged sheet with an embossed outer surface or the inclusion of at least one additional component capable of providing protection against detection by at least one sensing method other than visual inspection and surface profiling. To the contrary, the only teaching in the '058 patent of visual camouflage is the application of different colors of paints that include micro-encapsulated phase change materials.<sup>3</sup>

The '058 patent neither teaches nor suggests the inventions set forth in claims 6 and 11. Applicants respectfully request reconsideration and withdrawal of any anticipation rejection based on the '058 patent.

Additionally, none of the references of record are believed to teach or suggest the convertibility feature set forth in new claims 12-13. Accordingly, those claims are submitted to be further patentable.

## Conclusion

Applicants submit that claims 2-9 and 11-13 are neither taught nor suggested by any of the references of record, either alone or in combination. Because no other objections or rejections of these claims have been made, Applicants respectfully request withdrawal of the outstanding rejections and allowance of all claims.

<sup>3</sup> Col. 4, lines 23-35.

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As a result of this amendment, a total of 11 claims are pending, one of which is independent. This is less than the 20 and 3, respectively, paid for as part of the initial filing fees. Accordingly, no over-the-limit claim fees are believed to be due.

This Response is being filed within the shortened statutory period. No extension of time fee is believed to be necessary.

In view of the foregoing, no fee is believed due for entry and consideration of this amendment and response. However, if any additional fees are or become due, they can be charged to the deposit account mentioned in the first page.

Inquiries concerning this submission should be directed to the attention of the undersigned. The correspondence address of record remains unchanged.

Respectfully submitted,



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